IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
WEDNESDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 2923 of 1997

Between:

1 N.T.R Telugudesam (L.P) Party rep by Ankam Gangadhar Dist Secretary S/o Bojanna Zulfikar Gally , Bhainsa , Adilabad Dist.
2 Parvathi Bai W/o Ramdas Plot No.557 , SurveyNo.134, Rajeevnagar , Bhainsa , Adilabad Dist.
3 Shantabai w/o Viswanatham Plot No.75 , Rajeevnagar , Bhainsa , Adilabad Dist.
4 P.Rajubai W/o Kashiram Plot No.816 , Rajeevnagar , Bhainsa , Adilabad Dist.

.....
PETITIONER(S)

AND

1 District Collector Adilabad
2 Revenue Divisional Officer Nirmal Adilabad Dist.
3 Mandal Revenue Officer Bhainsa Adilabad .

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to declaring to direct the respondent No.2 grant pattas to the huts erected in the Government Banjar Land Situated in Survey No.134 of Bhainsa Town and order compensation at the rate of Rs.5000/- each of the hut which was the burnt down by respondent No.2..

Counsel for the Petitioner:MR.DASARI VIJAYA KUMAR

Counsel for the Respondent No.: GP FOR ASSIGNMENT

The Court Made the Following :

ORDER:

The petitioners file this writ petition; representing a political party, intended to protect the interests of the landless poor assignees.

2. According to the petitioners, about 2000 huts were erected at the hillock bottom adjacent to Bhainsa Town and they were living there for the last 15 years prior to the date of the writ petition. All those occupants belong to SC, ST, BC and minority communities and are living by doing labour work. It is also stated that all these occupants were assigned house site pattas. But, however, subsequently, the pattas issued in favour of petitioners, were collected back by the Revenue officials with an intention to conduct a programme of assignments through the local Minister. But as the said event had not taken place, the collected pattas were not returned to the assignees, and therefore, they made representations. Instead of returning pattas originally granted to the occupants, the 1st Respondent/District Collector along with other revenue officials have caused damage to the huts, and sought to evict the occupants. Therefore, the occupants have represented to various authorities. As there was no positive response, they have come up with the present writ petition and sought for restoration of the assignment of pattas granted to them,

apart from, a direction to the respondents not to evict the assignees from their occupation of the house sites.

3. A Counter affidavit has been filed on behalf of the respondents. Though the occupation and the assignment of pattas granted were spelt out in the affidavit, but however, it is stated by the Respondents that the assigned land was not occupied by anybody in view of the ground position, as it was not suitable for immediate occupation, and as the basic amenities are also not available at that place. In the counter, it is also stated that the action was taken in the year 1996 to evict the patta holders as well as illegal encroachers in order to re-assign the land. In the counter, it is also stated that number of encroachers were not eligible for assignment of pattas, and therefore, the respondents have taken steps to evict all the occupants, including the original assignees, for the purpose of making fresh assignment, after ascertaining the eligible persons. In fact, it is stated that respondents have received 1892 applications for the grant of pattas. But in the counter, there is no reference as to the final grant of the assignment of

pattas to any of the occupants, either to the original assignees or fresh eligible persons.

4. The learned counsel for the petitioners contended

that the action of the respondents to evict the occupants by taking their pattas is illegal, as the Respondents are not entitled to evict the original assignees, who are in occupation of the house sites by erecting huts. The learned counsel for the petitioner also contended that there are encroachers, who are not eligible and they can be identified, and the respondents can take action against said persons.

5. The learned Government Pleader, on the other hand, contended that the action of the respondents is to allow the occupation of only eligible persons and to evict the ineligible persons, but not intended to cause any inconvenience to the eligible original assignees.

6. Heard both sides and considered the material on record.

7. It is an admitted fact that there are original assignees, who were granted pattas basing on their eligibility for providing house sites. Though the respondents have stated that the

assignees have not occupied the house sites because of the ground position, but admittedly, some of the assignees have constructed their huts and occupied the assigned land. It is alleged by the respondents that the occupation by the third parties amounts to illegal encroachment, as they occupied the land without any assignment. In any case, the respondents are at liberty to

take action and to evict the encroachers if they are not eligible for assignment, but in so far as eligible assignees are concerned, the proposed action of the Respondents to evict them is illegal.

In the above circumstances, the writ petition is disposed of, directing the respondents not to evict the eligible assignees from their occupied and allotted house sites. In so far as other third parties are concerned, who are not assigned with the house site pattas, it is open to the respondents to verify their eligibility and pass appropriate orders granting pattas to the eligible persons, and they are, as well, entitled to evict the persons, who are not eligible, from the house sites.

This writ petition is, accordingly, disposed of. No costs.

Sd/-ASSISTANT REGISTRAR

Dsr/Kvh.

To:

1. The District Collector, Adilabad,
2. The Revenue Divisional Officer, Nirmal, Adilabad District,
3. The Mandal Revenue Officer, Bhainsa, Adilabad
4. Two CCs to the Government Pleader(Assignment), High Court Buildings,
   Hyderabad (OUT)
5. Two CD copies.

THE HONOURABLE SRI JUSTICE S.ANANDA REDDY

W.P.No.2923 of 1997

Dated 16th day of June, 2004